

cells.

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ord.*

96. The composition of claim 60, wherein the cell is a non-lymphocytic cell.
97. The composition of claim 60, wherein the tissue comprises non-lymphocytic cells.--

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#### REMARKS

##### Amendment Mailed February 16, 1999

Applicant respectfully requests that the Preliminary Amendment mailed to the Patent Office on February 16, 1999 be entered into the record. A copy of this Amendment is enclosed. This Amendment added the following new claims.

89. The composition of claim 36, wherein said composition comprises a genetically engineered cell.

90. The composition of claim 59, wherein said composition comprises a genetically engineered cell.

91. The composition of claim 60, wherein said composition comprises a genetically engineered cell.

#### The Office Action

Claims 36, 39-43, 47, 57, 59, and 60 were pending in the application. Claims 89-91 were added on February 16, 1999. Claims 92-97 have been added herein. Claims 36, 59, and 60 have been amended. Accordingly, claims 36, 39-43, 47, 57, 59, 60, 89-91, and

92-97 are pending in the application.

Claims 36, 39-43, 47, 57, 59, and 60 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 36, 39-43, 47, 57, 59, and 60 stand rejected under 35 U.S.C. § 102(b). Each of these rejections is addressed as follows.

Rejection Under 35 U.S.C. § 112, second paragraph

Claims 36, 39-43, 47, 57, 59, and 60 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. The Office asserts that the recitation of “capable of causing” renders the claims indefinite. This rejection has been met by the present amendment to claims 36, 59, and 60 in which the phrase “capable of causing” has been replaced with “that causes.”

Rejection Under 35 U.S.C. § 102(b)

Claims 36, 39-43, 47, 57, 59, and 60 stand rejected under 35 U.S.C. § 102(b) as anticipated by Wong et al. This rejection should be withdrawn.

To anticipate a claim a prior art reference must disclose every limitation of the claim. Wong does not meet this test.

Claim 36 is directed to a transplantable composition for use in humans that includes a cell or tissue of a type normally bearing a surface antigen that causes an immune response against the cell or tissue in a human recipient, wherein the antigen is

modified, masked, or has been partially or wholly eliminated to decrease the immune response, such that upon introduction of the composition into a human, *lysis of the cell or tissue is prevented.*

Claim 59 is directed to a transplantable composition for use in humans that includes a cell or tissue of a type normally bearing a surface antigen that causes immune response against the cell or tissue in a human recipient, wherein the antigen is masked such that upon introduction of the composition into a human, *lysis of the cell or tissue is prevented.*

Claim 60 is directed to a transplantable composition for use in humans that includes a cell or tissue and at least one masking agent, wherein the masking agent binds to the surface agent of the cell or cells of the tissue that causes an immune response against the cell or tissue in a human recipient such that upon introduction of the composition into the human, *lysis of the cell or tissue is prevented.*

Wong discloses mouse neuronal cells that have been induced to express H-2 antigens with IFN- $\gamma$ . Wong also discloses the use of an intact IgG antibody, the 11-4.1 monoclonal antibody, for staining these cells. The 11-4.1 antibody binds to the H-2 antigen. (A description of the 11-4.1 antibody from an American Type Culture Collection catalog is provided in Appendix A.)

The presence of the 11-4.1 antibody on the mouse neuronal cell would not prevent lysis of the cell upon introduction into a human as required by the pending claims. The

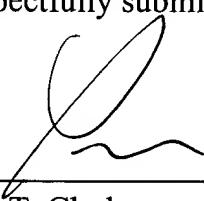
11-4.1 monoclonal antibody, like any intact IgG antibody, fixes complement and causes lysis of cells to which the antibody is bound. Wong's disclosed composition therefore does not meet the claim limitation requiring that lysis be prevented. This rejection should therefore be withdrawn.

### CONCLUSION

In view of the foregoing remarks, Applicant submits that the claims are now in condition for allowance, and such action is respectfully requested. If the Examiner believes that a phone conference would be beneficial to the quick allowance of this case, she is requested to call Applicant's attorney at the number listed below. Enclosed is a check for \$54.00 to cover the expense of the claims added by this amendment. If there are any charges or credits, please apply them to deposit account number 03-2095.

Respectfully submitted,

Date: May 17, 1999

  
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